

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

BERNARD RUGEN,  
PLAINTIFF,

v.

**3: CV 05-1171**

COMPLAINT PURSUANT  
FED. R. CIV. P. RULE (3)

SIS LT. HEATH

SNU LT. CARLSON

2 UNIT TEAM

LAZARDI, CONSUMOR

JAMES, PROPERTY OFFICER

WATSON, OFFICER

DUECK, OFFICER

MARKY, OFFICER

SALOME, OFFICER, INDIVIDUALLY AND

IN THEIR OFFICIAL CAPACITIES,

DEFENDANTS

FILED  
SCRANTON

JUN 13 2005

PER AMU  
DEPUTY CLERK

THE COURT HAS JURISDICTION UNDER 28 U.S.C. SECTION 1331 AND 1343 (3)(3). PLAINTIFF SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C. SECTION 2201 AND 2202. PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 U.S.C. SECTION 223 & 2284 AND RULE 65 OF THE FED. R. CIV. P.

FACTS

APRIL 8<sup>TH</sup> 2005 I WAS TRANSFERRED BY BUS FROM THE CUSTODY OF FDC PHILADELPHIA (FDC) BY THE U.S. MARSHALS AND PLACED IN THE CUSTODY OF U.S.P. LEWISBURG (USP) STAFF AT HARRISBURG PA. AIRPORT.

UPON STEPPING FROM THE BUS AT THE AIRPORT INTO THE CUSTODY OF USP LEWISBURG STAFF I WAS VIOLENTLY SNATCHED BY TWO UNKNOWN MEN WITH USP LOGOS FROM THE BUS I ARRIVED, THEY LITERALLY IN A VIOLENT MANNER DRAGGED ME BY FORCE ON THE ~~ROAD~~ GROUND (APPROXIMATELY 40 YARDS) BEFORE BEING  
1 OF 7

THROWN UP AGAINST THE SIDE OF THE BUS I WAS ASSIGNED TO TRAVEL TO USP LEWISBURG UPON.

A LT. IDENTIFIED HIMSELF AFTER HE STATED "I HEARD ALOT OF BAD THINGS ABOUT YOU PIECE OF SHIT, YOU GONNA HAVE A LONG STAY A LEWISBURG". "I HEARD WHAT HAPPENED AT FDC..." AS HE SLAMMING MY HEAD AGAINST THE SIDE OF THE BUS TELLING ME TO SHUT UP.

TO CONCLUDE THE VERBAL AND PHYSICAL ASSAULT THE TWO MEN FORCEFULLY GUIDED ME TO BOARD THE BUS THEN PUSHED ME SO VIOLENTLY UP THE BUS STEPS I STUMBLERD INTO THE BACK OF ANOTHER OFFICER WHO TURNED AROUND USING PROFANITY AS HE GRABBED ME THROWING ME DOWN THE BUS STEPS.

FROM THE CONCLUSION TO START OF THESE EVENTS SIS LT. SUE HEATH FOLLOWED BEHIND OR STOOD TO THE SIDE WATCHING WITHOUT ATTEMPTING TO INTERVENE OR PREVENT THE ASSAULT.

ON OR ABOUT 4/9/05 I WAS TAKEN TO A CONFERENCE TITLED "QUADE" WHERE I WAS THREATENED AND INFORMED BY VARIOUS OFFICIALS IN SUITS (ADMINISTRATIVE TITLE UNKNOWN) "THOSE GUY'S BEHIND YOU NOT PLAYING THEY WILL BEAT YOU UP".

ON OR ABOUT 4/14/05 MY PERSONAL PROPERTY ARRIVED FROM FDC TO U.S.P I WERE INFORMED TO GET DRESSED TO BE ESCORTED TO RECEIVING & DISCHARGE (R&D) TO REVIEW MY PROPERTY; DURING WHICH TIME I NOTICED VARIOUS ITEMS SUCH AS PERSONAL, BUSINESS, LEGAL PAPERS ALSO OTHER ITEMS WERE NOT PRESENT.

WHILE THERE THROUGH CONVERSATION I WAS INFORMED "MOST OF US ARE FAMILY OR FRIENDS THIS IS OUR HOUSE WE RUN IT AND WE LOOK OUT FOR EACH OTHER".

THE R&D OFFICER IMMEDIATELY ESCORTED ME TO SPECIAL HOUSING UNIT (SHU) PROPERTY OFFICER JAMES INFORMING HIM I WAS GIVEN SOME LEGAL MATERIAL BUT I AM IN NEED OF ADDITIONAL.

ON 4/18/05 I RECEIVED A LETTER FROM THE THIRD CIRCUIT COURT OF APPEALS INFORMING ME OF DEADLINES.

ON 4/19/05 I HAND DELIVERED A COPY WITH THE LETTER FROM THE COURT REQUESTING IT BE GIVEN TO JAMES SO I COULD OBTAIN LEGAL MATERIAL ALSO INFORMING HIM ABOUT THE DEADLINES.

BETWEEN 4/15/05 THROUGH TO 4/24/05 VIA INSTITUTIONAL MAIL I SENT

JAMES & SHD LT. GABERSON REQUEST EVERYDAY PLEADING TO BE GIVEN ACCESS TO MY LEGAL MATERIAL, BUT RECEIVED NO ACKNOWLEDGEMENT NOR AUTHORIZATION.

ON 4/24/05 I WAS REMOVED FROM CELL 301 IN THE SHU TO A SHU STRIPOUT CAGE, WHILE WAITING COMMISSIONER LAZARDI BY LAUNDY BAG REMOVED ALL LEGAL ITEMS BY COMING TO ME FROM CELL 301.

I WAS INFORMED I WILL BE REMOVED FROM THE SHU BLOCK AND WILL BE PLACED IN G-BLOCK, IN ADDITION OFFICER WATSON INFORMED ME SIS LT. HEATH ORDERED HIM TO CONFISCATE MY CRIMINAL LEGAL MATERIAL FOR SIS INVESTIGATION.

I ASKED OFFICER WATSON INVESTIGATE MY CRIMINAL LEGAL MATERIAL FOR WHAT PURPOSE IT DOESN'T HAVE ANYTHING TO DO WITH THIS INSTITUTION.

ON 4/25/05 I SPOKE WITH HEATH AND REQUESTED MY LEGAL MATERIAL BE RETURNED, SHE INFORMED ME I WOULD GET THE LEGAL MATERIAL WHEN I RETURN TO SHU BUT NOT WHILE I AM ASSIGNED TO BE HELD IN G-BLOCK.

ON OR ABOUT 4/27/05 I RETURNED TO SHU HOUSING IN SEQUENCE WITH SIS LT. HEATH ENTERING THE SHU STAIRCASE HEADED TOWARD THE SHU HOUSING AREA. I ASKED "WHEN WILL I BE GIVEN MY LEGAL MATERIAL," SHE STATED "YOU HAVE TO ASK SHD LT. GABERSON."

AS SHE EXITED LT. GABERSON ENTERED FROM SHU'S RECREMENT AREA I ASKED HIM ABOUT THE LEGAL MATERIAL HE STATED "PUT IN A REQUEST"

BETWEEN 4/27/05 AND MAY 16, 2005 EVERYDAY I SUBMITTED REQUEST TO JAMES AND GABERSON ABOUT MY LEGAL MATERIAL.

IN THE DAYS I VERBALLY SPOKE WITH THEM THEY WERE RUDE, WAVED ME OFF OR JUST IGNORED ME.

ON OR ABOUT 5/3/05 CAPTAIN OLIVER WAS CONDUCTING ROUNDS AND I INFORMED HIM: (A) I HAVE A MAY 9 AND MAY 11, 2005 DEADLINE FOR THE COURTS AND SHD STAFF IS DELIBERATELY DENIING ME ACCESS TO OBTAIN LEGAL MATERIAL. (B) I INFORM THE SHD LT. MULTIPLE TIMES, AND PROVIDE LEGAL DOCUMENTS.

IMMEDIATELY OLIVER CONTACTED GABERSON. GABERSON STATED "AUGEN WAS TAKEN TO G-BLOCK, RETURN TO SHU M..., NOW HE EXPECTS TO BE PLACED WITH HIS PROPERTY BEFORE THOSE WHO JUST CAME TO SHD ALSO"

I INFORMED THE CAPTAIN I HAVE DEADLINES IN COURT, MY LEGAL MATERIAL

SHOULD HAVE NEVER BEEN TAKEN ALSO I'VE BEEN TRYING TO GET MY LEGAL ITEMS SINCE APRIL 18<sup>TH</sup> I CAN UNDERSTAND IF I WANTED ANYTHING ELSE FROM PROPERTY BUT I AM BEING DENIED SOMETHING CONCERNING MY LIFE.

THREE ADDITIONAL WEEKS PAST AND I STILL HAVE NOT BEEN AUTHORIZED LEGAL MATERIAL AND MISSED BOTH DEADLINES.

ON MAY 18<sup>TH</sup> 2005 I RECEIVED A LETTER FROM MY ATTORNEY INFORMING ME SHE HAD BETWEEN 60 TO 90 DAYS REMAINING TO WRITE AND FILE THE APPEAL BRIEF ASKING DID I HAVE THE ISSUES PREPARED.

ON MAY 19<sup>TH</sup> I SUBMITTED A REQUEST TO MAKE A LEGAL CALL TO THE COURTS (ATTACHED EXHIBIT A).

I WAS DENIED THE LEGAL CALL KNEW I WAS INFORMED IF I AM GRANTED AUTHORIZATION I WOULD HAVE TO PAY \$10.00, PLUS A \$1.00 SURCHARGE FOR EACH ~~MINUTE~~ MINUTE EVEN IF I DON'T GET THROUGH.

THERE IS NO POLICY STATING INMATES MUST PAY FOR LEGAL CALLS IN ADDITION & PROVIDE LETTERS FROM THE COURT & ATTORNEY PROVING IMMINENT DEADLINE.

I WAS ALSO DENIED ACCESS TO CONTACT MY ATTORNEY TO SPEAK WITH HER ABOUT MY APPEAL.

IMMEDIATELY ATTEMPTED TO FOLLOW THE BOARD OF PRISON (B.O.P) ADMINISTRATIVE REMEDY (ADR) TO RESOLVE ALL OF THE ISSUES MENTIONED ABOVE ONLY TO BE DELIBERATELY DENIED BY A UNIT TEAM TO DENIE ALL THE FORMS TO PROCESS MY COMPLAINTS.

ON THE INITIAL OCCASION I HAND DELIVERED ON DOMESTIC PAPER "INMATE REQUEST TO STAFF" W/ COMPLAINTS TO BE PLACED ON 8 1/2 FORMS" WHICH BEGINS THE B.O.P ADMINISTRATIVE REMEDY PROCESS, 30 DAYS PAST AND ALL I HAVE RECEIVED WERE EVASIVE ANSWERS CONCERNING THERE WHEREABOUTS, BUT THEY HAVE NOT BEEN PROCESSED.

I BEGAN TO SUBMIT REQUEST TO A UNIT COUNSELOR ASKING FOR THE NECESSARY FORMS SO I MAY REITERATE THE B.O.P ADMINISTRATIVE REMEDY TO NO AVAIL TO DATE THE COMPLAINTS MENTIONED ABOVE HAS NOT BEEN FILED BY A UNIT TEAM



ON MAY 24, 2005 I WAS INFORMED THAT MY CELL ASSIGNMENT WAS BEING CHANGED FROM 009 BASEMENT TO 314 3<sup>RD</sup> FLOOR.

I PACKED MY PROPERTY MIXED WITH MY CELLMATE'S ITEMS TOGETHER. IT CONSISTED OF LEGAL MATERIAL AND HYGIENE PRODUCTS.

MY PROPERTY WAS GIVEN TO ME ABOUT 20 MINUTES AFTER I WAS PLACED IN CELL 314.

AS I BEGAN SORTING THROUGH THE MATERIAL SEPARATING MY ITEMS FROM MY CELLMATE'S I NOTICED ITEMS HAD BEEN SUFFLED AND THREE OF THE LEGAL ENVELOPES WERE MISSING MATERIAL. I WENT THROUGH THE DOCUMENTS SEVERAL TIMES TO MAKE SURE I WAS CERTAIN THE MATERIAL WAS NOT OUT OF PLACE.

I COMED TO FIND DOCUMENTS, TRANSCRIPTS, DOCKET SHEETS, CASE LAW, FED 302 REPORTS WERE NOT PRESENT, ALSO LEGAL RESEARCH ~~MANUALS~~ MANUALS WERE GONE.

THE OFFICER WHO ESCORTED ME TO CELL 314 RETURNED TO PICK UP LUNCH TRAYS AT THAT TIME I ASKED ABOUT MY LEGAL MATERIAL IN WHICH OFFICER ADIMI ACTED AS IF HE DIDN'T KNOW WHAT I WAS SPEAKING ABOUT. I REQUESTED HE GET THE CAPTAIN OR CND LT.

MOMENTS LATER OFFICER SOWLES 3<sup>RD</sup> FLOOR OFFICER IN CHARGE CAME TO 314 ASKING "WHAT'S THE PROBLEM" I TOLD HIM "I NEED MY LEGAL PAPERS RETURNED I JUST PLACED THE MATERIAL IN ITS PROPER PLACE DAYS PRIOR." HE SAYS "WHAT PAPERS?" I STATED "YOU KNOW WHAT PAPERS I AM SPEAKING ABOUT CAN YOU JUST GET ME THE CAPTAIN OR CND LT." ALL OF A SUDDEN HE REMEMBERS WHAT PAPERS AND REFUSED MY REQUEST TO CONTACT HIS SUPERIORS. HE SAYS "CUFF UP" I SAID "GET THE LT. OR CAPTAIN." HE SAID "NAH I'M NOT GETTING THE CAPTAIN OR LT. I'LL HANDLE THIS MY WAY."

APPROXIMATELY 3 MINUTES LATER A GANG OF OFFICERS APPROACH THE CELL OFFICER DUCE, THREATENING WITH A CAN OF GAS, KOTACK, ADIMI, MARKS, TWO OTHER UNKNOWN STAFF, STATING "CUFF UP." I TOLD THEM "YOU ALL ARE WRONG YOU TOOK MY BELONGINGS ALL I WANT IS MY MATERIAL RETURN, I KNOW IT WAS THERE BECAUSE I JUST VIEWED IT." DUCE TO THE GAS STARTED

HIMING THE CARS IN A THREATING MANNER. SOME ONE STATED "BRING YOUR STUPID BLACKASS OVER HERE CUFF UP." ANOTHER SAID "PAID THE FUCKIN ROAD." OTHER INMATES WERE YELLING "GIVE HIM HIS CASE MATERIAL, WHAT YOU GASSING HIM FOR." ANOTHER INMATE YELLED "CUFF UP" "CUFF UP" "THEY DON'T LIKE OUR KIND OUT HERE, YOU HEARD HOW THEY DISRESPECT US."

I CUFFED, AND WAS ESCORTED TO SOME CAGE IN AN AREA AWAY FROM THE INMATES & PUSHED INTO THE CAGE STUMBLING. I ~~WAS~~ WAS IN THE CAGE NEARLY 4 1/2 HOURS OF THE DAY SHIFT, OFFICER DUECE THREATENED TO TOSS ME DOWN THE STAIRS WELL IF I SAID ANYTHING OR CAUSED TROUBLE AND SOLOICE COMPLAINED.

I ATTEMPTED EXPLAINING I JUST WANT MY PAPERS SO I COULD DO MY LEGAL WORK CONCERNING MY APPEAL AND THAT I AM NOT LOOKING FOR TROUBLE.

ONE OF THE OFFICERS MENTIONED ABOUT AN INCIDENT AT SCHUYLKILL WHERE CHD LT. BARBERSON WAS WORKING WHEN I INITIALLY ~~WAS~~ DESIGNATED TO THE B.O.P. I TOLD THE OFFICER THAT WAS THE PAST FURTHERMORE STAFF WAS HARASSING ME AT SCHUYLKILL SO YOU DON'T KNOW WHAT HAPPEN AT SCHUYLKILL."

OFFICER SOLOICE INFORMED ME HE SEARCH MY PROPERTY ALSO THE MATERIAL WAS IN THE TRASH AND I WASN'T GETTING IT BACK.

I INFORMED HIM I WOULD PETITION THE COURT AND BEGAN THIS MISSION TO OBTAIN A RESTRAINING ORDER OR PRELIMINARY INJUNCTION.

SIMILARLY I BELIEVE I AM BEING RETALIATED AGAINST BECAUSE OF ISSUES THAT MAY HAVE OCCURRED WITH MY OTHER PRISONS.

THESE INCIDENTS ARE SEPARATE BUT REPETITIVE IN A CONSISTANT SEQUENCE AS A RESULT I MISSED COURT DEADLINES WHICH HAS MY APPEAL IN JEOPARDY, LEGAL DOCUMENTS ARE MISSING CONCERNING MY CRIMINAL CASE AND I AM BEING DENIED ACCESS TO RESOLVE LEGAL ISSUES WITH THE COURTS CONDUCT LEGAL BUSINESS WITH MY ATTORNEY AND BEING DENIED THE OPPORTUNITY TO RESOLVE THE ISSUES MENTIONED WITHIN THE B.O.P ADMINISTRATIVE REMEDY PROGRAM DESIGNED TO SOLVE INTERNAL ISSUES.

I NEED MY MATERIALS RETURNED AND ALLOWED ACCESS TO THE COURTS

WITHOUT OBSTACLES, TAMPERING.

THE PLAINTIFF HAS NO PLAIN, ADEQUATE OR COMPLETE REMEDY AT LAW TO REDRESS THE WRONGS DESCRIBED HEREIN. PLAINTIFF HAS BEEN AND WILL CONTINUE TO BE IRREPARABLY INJURED BY THE CONDUCT OF THE DEFENDANTS UNLESS THIS COURT GRANTS THE DECLARATORY AND INJUNCTIVE RELIEF WHICH PLAINTIFF SEEKS.

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER A JUDGMENT GRANTING PLAINTIFFS:

A DECLARATION THAT THE ACTS AND OMISSIONS DESCRIBED HEREIN VIOLATED PLAINTIFFS RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES.

A PRELIMINARY AND PERMANENT INJUNCTION ORDERING DEFENDANTS HEATH, GARRISON, J. UNIT TEAM, LAZARUS, JAMES, WATSON, DUECE, MARK, SOLOICE, TAMPERING WITH PLAINTIFFS LEGAL MATERIAL, CONFISCATING LEGAL MATERIAL UNDER FALSE PRETEXT, TAMPERING WITH ADMINISTRATIVE REMEDY, REFUSING TO AUTHORIZE ACCESS TO HIS LEGAL ATTORNEY AND COURT OFFICERS TO CONDUCT LEGAL BUSINESS, REFUSING TO AUTHORIZE ACCESS TO HIS LEGAL/PERSONAL PROPERTY SO PLAINTIFF CAN OBTAIN LEGAL MATERIAL TO PREPARE COURT DOCUMENTS.

#### VERIFICATION

I HAVE READ THE FOREGOING COMPLAINT AND HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT AS TO MATTERS ALLEGED UPON INFORMATION AND BELIEF, AND, AS TO THOSE, I BELIEVE THEM TO BE TRUE. I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT LEWISBURG PENNSYLVANIA ON JUNE 7<sup>TH</sup> 2005

Bernard Allen  
BERNARD ALLEN

BERNARD ALLEN 83035054  
UNIT TEAM

MAY 19, 2005  
008

MAY I PLEASE BE GRANTED A LEGAL PHONE CALL I AM PREPARING  
A APPEAL FOR THE COURTS AND I AM IN NEED OF DOCUMENTS AS WELL  
AS OTHER INFO FROM THE COURT,

COURT REPORTER / CLERK 914-390-4103 & 914-390-4091

IF YOU NEED DOCUMENTS TO VERIFY MY CLAIM I AM IN POSSESSION  
OF SEVERAL.

8. [ INMATE ◀ TELEPHONE ▶ CALLS TO ATTORNEYS § 540.103. The Warden may not apply frequency limitations on inmate ◀ telephone ▶ calls to attorneys when the inmate demonstrates that communication with attorneys by correspondence, visiting, or normal ◀ telephone ▶ use is not adequate.]

The Bureau provides each inmate with several methods to maintain confidential contact with his or her attorney. For example,

P.S. 5264.06

December 22, 1995

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inmate-attorney correspondence is covered under the special mail provisions; private inmate-attorney visits are provided; and the inmate is afforded the opportunity to place an occasional unmonitored call to his or her attorney. Based on these provisions, frequent confidential inmate-attorney calls should be allowed only when an inmate demonstrates that communication with his or her attorney by other means is not adequate. For example, when the inmate or the inmate's attorney can demonstrate an imminent court deadline (see the Program Statements on Inmate Correspondence and Inmate Legal-

try writing, they probably won't take a  
collect call. time + charges, cost \$10. Surecharge,  
12/23/00 1:02



Bernard Allen 83035054  
U.S.P., P.O.B. 1000  
Lewisburg, PA 17837  
June 8, 2003

Court Clerk  
U.S.D.C. Middle Dist.  
235 N. Washington  
P.O.B. 1148  
Scranton, PA 18501

To Whom it May Concern:

Can you please file the enclosed as soon as your  
schedule permits.

Thank you for your time and assistance with this  
matter.

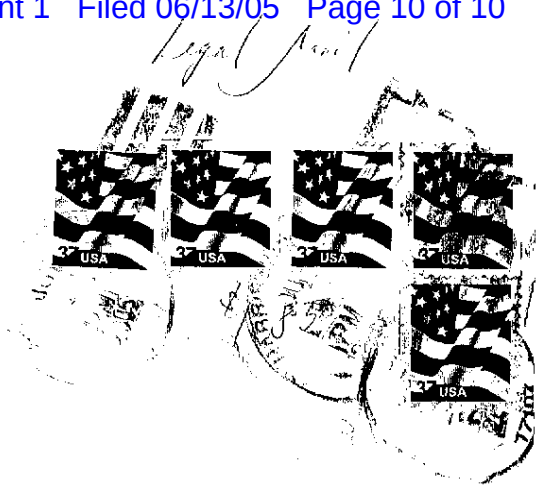
Enclosed is one original and one carbon copy.

Bernard Allen

3: 25 1171

3: CV 05-222

DEANED ALAN S3035054  
U.S.P., POB 1000  
LEWISBURG, PA 17834  
UNITED STATES PENITENTIARY



*Legal Mail*

RECEIVED  
SCRANTON

JUN 13 2005

MARY E. D'ANDREA, CLERK  
Per *by* DEPUTY CLERK

CART CREEK  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA  
233 N. WASHINGTON AVE.  
P.O. B 1118  
SCRANTON, PA 18501

*Legal Mail*

*Legal Mail*